

***Village of Barrington
Zoning Board of Appeals
Minutes Summary***

Date: Tuesday, April 4, 2006
Time: 7:00 p.m.

Location: Village Board Room
200 South Hough Street
Barrington, Illinois

In Attendance: Patricia Pokorski, Chairperson
Ryan Julian, Commissioner
Daniel Fitzgerald, Commissioner
Peg Moston, Commissioner
Victoria Perille, Commissioner

Staff Members: Paul Evans, Assistant Director of Planning

Call to Order

Ms. Pokorski called the meeting to order at 7:07 p.m.

Roll Call noted the following: Ryan Julian, present; Peg Moston, present; Victoria Perille, present; Daniel Fitzgerald, present; Todd Sholeen, absent; Patricia Pokorski, present; Bruce Kramer, absent.

Chairperson's Remarks

Ms. Pokorski announced the order of proceedings and rules for public hearings and swore in all attendees that expected to speak at this meeting.

Old Business

ZBA 06-02: 168 S. Northwest Highway
Petitioner: Lynn Williams, Warren Johnson Architects

The applicant seeks variations from: 1) Chapter 7, Section 7.2, Subsection G (Minimum Yard Requirements) and 2) Chapter 7, Section 7.2, Subsection M (Landscaping) of the Village of Barrington Zoning Ordinance relative to the removal of an existing building and construction of a new building addition to an existing building on the subject property. The property is zoned B-1 General Business Service District. The property is designated for Commercial Retail/Office uses by the Village of Barrington Comprehensive Plan. The property is in Neighborhood 18 which encourages the redevelopment of commercial uses only along Northwest Highway.

Ms. Williams gave a brief presentation and an overview of the proposed plans.

They plan to demolish the front portion of one of the buildings on the site and erect a new addition to create a total of 3709 square feet of total retail space to house three tenants.

The site will also include a new parking lot, stormwater drainage system, landscaping, signage, and an outdoor eating area.

A preliminary meeting was held with the ARC on March 9, 2006 and they will be before the ARC for public hearing seeking final approval on April 13, 2006.

Mr. Evans presented the staff report for 168 S. Northwest Highway.

Ms. Pokorski asked for public comments. There were no public comments.

Ms. Perille asked about the easement.

Ms. Williams indicated the easement was not required at the time the drawings were done, so it does not appear on the plans but will be added.

Ms. Perille asked if the dumpsters and parking will have to be moved for the easement.

Mr. Evans stated they would, due to the fact that rear access is required on the property to reach the commuter lot.

Ms. Perille pointed out that the property appears to be set back ten inches from the property line, and not zero inches as stated. In that case, the petitioner will require a variation of two feet, two inches instead of a variation of three feet.

Mr. Evans agreed that was the case.

Mr. Julian asked if there is a sidewalk present.

Ms. Williams explained that there is one on the south side of the property going back to the dumpsters. She also indicated that there will be one on the eastside that extends to any sidewalk provided by the Village that exists along Northwest Highway

Mr. Julian moved to approve ZBA 06-02 with changes noted to the setback. Ms. Moston seconded the motion.

Roll Call vote:

Mr. Fitzgerald - yes

Mr. Julian – yes

Ms. Pokorski – yes

Ms. Moston – yes

Ms. Perille - yes

Motion carried.

New Business

ZBA 06-03: Strauss Residence, 397 N. Valley Road

Petitioner: Michael Wolfe, Attorney at Law; Tom Strauss, Owner

The applicant seeks a variation of Chapter 6, Section 6.4, Subsection E of the Village of Barrington Zoning Ordinance relative to increasing the maximum allowable setback for a principal structure for the purposes of decreasing an entry addition constructed without a permit onto an existing residential structure. The subject property is zoned R-3 Single Family Residential.

Mr. Wolfe gave a presentation on the timeline of improvements and renovations done including the new entry addition. A timeline is as follows, as stated by Mr. Wolfe:

- Home purchased in 1994 and the owner was unaware of any setback violations for the existing covered porch on the home.
- Soon after moving in they removed the top and part of side walls and left the railing on.
- Mr. Strauss has done many improvements over twelve years and always obtained permits for the work.
- In 2005 the owners applied for a permit to add a fireplace but were informed by Mr. Wallace that it would be in violation of the setback. Consequently they did not add the fireplace.
- In March of 2001 the setback in R-3 district was changed by the Village of Barrington. This change caused the side of their house, including the porch area, to become a legal nonconforming structure.
- In the summer of 2005 they obtained a permit for the “driveway and screen in porch.” The screen in porch did not refer to the side enclosed area off of the garage but rather a back porch that had already been constructed years earlier. The contractor had made a mistake in adding that to the permit so the porch was removed from the permit per the contractor’s request. In the process of ripping up the driveway the contractor noticed that the side porch was deteriorating and he suggested to Mr. Strauss that it could be redone also. He added that he could at that time enclose the porch and move it closer to the home. Mr. Strauss agreed to let the contractor take care of it.

Mr. Strauss did not know he needed an additional permit because he thought he was replacing what was there originally.

- A neighbor called the Village about the work that was being done on the home. The Village came out to investigate and informed them that they were in violation of the setback and issued a stop work order. They were told their options were to tear the structure down or to apply for a variation. Mr. Wolfe stated that a Village Official told the owners a few times “we don’t give variations, why bother?” They eventually did decide to apply for a variation and contacted Mr. Wolfe, Attorney at Law to proceed.
- Mr. Wolfe stated that they took unsafe, unsound portion of the house and improved it by making it pleasing to the eye and blended it in with the home.
- Without the porch there you would walk out of the garage onto a slope. Something is needed there, at the very least a porch with a railing for safety.
- Mr. Wolfe stated that a reference in staff report to a Kris Zeile from JB Enterprises stated that they would be submitting deck/porch plans under a new permit. Mr. Wolfe stated there was no Mr. Zeile that worked there, but there was woman that did. He also added that there was no indication on their part that they would be submitting additional plans for the porch work.

Mr. Evans presented the staff report on the Strauss Residence located at 397 N. Valley Road. He stated that staff’s interpretation differs slightly from that of the petitioner. Mr. Evans stated there is no record showing that when they purchased the home in 1994 that a permit was ever issued for the porch that is shown on the plat. He added there is some handwriting on the plat that staff does not believe is part of the original plat. It is presumed by staff that the porch was originally constructed without a permit.

Mr. Evans pointed out the following:

- The change in 2001 by the Village of Barrington to the setback does not affect this project. The porch would still be in violation if constructed before 2001.
- The copy of the plat submitted contains handwriting indicating the covered porch on the side of the residence as well as a paver brick driveway extension. Mr. Evans indicated he does not know why a covered porch would be labeled on the plat since at the time of the permit in June 2005 there was no covered porch there.
- When staff reviewed the permit application they had no plans for the screen in porch. After indicating they would need such plans, a letter was received on May 18, 2005 from JB Enterprises requesting removal of the screen in porch on the permit.
- Replacement of the porch is an addition to the house.
- A neighbor reported the structure being built to the Village of Barrington. The Village inspected the structure.
- Several contacts were made to the owner between September 2005 and January 2006 requesting the petitioner to demolish the addition or submit for a variation. In January 2006 the issue was turned over to the Village of Barrington’s Attorney, James Bateman. Mr. Bateman sent a final notice to the owner. On March 1, 2006 Mr. Strauss applied for a variation.
- This is a “self created” need for a variation.
- Granting an after the fact variation based on the owner and contractor not following the regulations of the Village of Barrington would be special privilege and establish problematic precedence.
- Staff is concerned with the fact that the contractor specifically amended the permit to exclude the porch project from the permit and then performed the work that was excluded from the permit.
- Staff believes the remedy for this is to allow a stoop with a guardrail to be constructed at the location of the entrance in order to make it a safe situation for the petitioner.

Mr. Evans stated that Joe Jenkot, an inspector for the Village of Barrington, is here to present and state for the record his notes and his involvement with this case. Mr. Jenkot stated the following:

- His responsibility as an inspector includes reviewing permit applications for completeness, safety, and estimating fees.
- Mr. Jenkot clarified that upon review of this permit he noticed that there were no plans for the porch project. He then contacted Kris Zeile of JB Enterprises whose business card was attached to the file. Kris Zeile indicated they were not planning to do the porch at this time but would be doing the porch sometime in the future. Kris Zeile indicated to Mr. Jenkot that they would submit

plans for the porch project under a new permit at that time. Mr. Jenkot then made a note about the conversation and placed it in the file along with the business card.

Ms. Pokorski asked for public comments at this time. Regina Barney of 399 N. Valley Road was sworn in and gave the following testimony:

- Ms. Barney indicated that she is a witness to the fact that there was an open space present where the porch was built. She indicated it contained only pavers or flooring material of some kind.
- She stated the porch is unattractive and offensive and is located 7 feet, 4 inches from her property line, and she is entitled to 15 feet. Additionally, one section of a retaining wall, built of wood beams and stone, sits just 2 feet 4 inches from her property line.
- Her kitchen area overlooks the porch.
- She stated that Fox Point did not approve the structure during its own architectural review of it. She added that Mr. Strauss is also on the Fox Point Architectural Review Board and, none the less, proceeded without approval.
- Fox Point has committees and per Fox Point's own guidebook this structure is not permitted.
- The structure negatively affects her own property value.
- The Village should require its removal or they will be setting a precedent for residents of Fox Point to construct additions without permits.
- She asked the ZBA to require the owners to remove the structure and replace it with pavers as it was before.
- She stated that if they were courteous, humble neighbors she may not have issue with the addition. Also she added that when it came to the point of the Strauss' blackmailing them, they had to act to have the zoning enforced.

Mr. Wolfe spoke in rebuttal to Joe Jenkot's and Ms. Barney's statements.

Mr. Wolfe indicated he had issue with the fact that they had filed a freedom of information request and never received notes about any conversations with Kris Zeile.

Mr. Evans explained that a representative sent by Mr. Wolfe to the Village named Roger Steele reviewed the file himself and selected what documents he wanted a copy of for this case. The information was available to Mr. Steele in the file. Mr. Evans said he used the same file to make copies for tonight's meeting.

Mr. Wolfe stated that there would be no reason for Mr. Strauss to apply for a permit and get denied and then build it anyway as he is sure it would have been noticed by someone and reported.

Mr. Strauss admitted for the record that it is his fault and was his mistake. He added it was not his intention to violate the Village regulations, and he merely misunderstood the need for a permit in this situation.

Mr. Strauss stated that the porch was on the house when it was purchased by them. Additionally, the survey used is the same one used when applying for all permits needed for various additions to his home over the years.

Mr. Strauss said that he originally got a quote to do the porch but it was very expensive. At a later date, after the 2001 setback change, he got a new contractor who quoted a lower price. He spoke with Mr. Wallace who grandfathered in the permit if completed within thirty days.

He stated also that adding the porch onto the permit was a mistake and was probably made because too many people were involved in getting the permit, including himself, his contractor and his contractor's assistant.

Ms. Pokorski asked Mr. Strauss why it took him 6 months to reply to the Village.

Mr. Strauss stated he was told by Village officials that they would probably not get a variation. The project was already finished when the stop work order was issued by the Village. They held off responding to the Village while they decided what they were going to do.

Ms. Pokorski went over points made by staff. Staff indicated that the standards were not met.

Mr. Julian asked the question as to whether or not they would grant this variation if the petitioner had come before them before anything was done. He stated he believes he would not have approved the building of the structure. He added that only the railing would have been approved.

Ms. Pokorski said she agrees with Mr. Julian.

Ms. Pokorski asked Ms. Moston if she would have approved this structure originally.

Ms. Moston stated she would not have approved it.

Mr. Fitzgerald stated that 6 months is a long time to not respond and it is a shame the Village Attorney had to be involved. He states he listens to what the neighbors have to say and The Zoning Board has a job to render a recommendation.

Mr. Wolfe asked if they would have direction tonight on what they will be required to do.

Mr. Julian explained that they would recommend something, but it still goes to the Board of Trustees for the final decision.

Ms. Perille asked if they decide to make a motion based on staff's findings what would be required of the petitioner.

Ms. Pokorski stated that they would need to apply for an after the fact permit for the foundation and also for a new permit for the guardrail.

Mr. Julian made a motion to accept staff's findings as amended. Ms. Perille seconded the motion.

Roll Call vote:

Mr. Fitzgerald - yes

Mr. Julian – yes

Ms. Pokorski – yes

Ms. Moston – yes

Ms. Perille - yes

Motion carried.

Minutes

The meeting Minutes from January 3, 2006 were reviewed.

Ms. Pokorski noted one correction to be made.

Ms. Perille made a motion to approve the minutes from January 3, 2006 with corrections. Ms. Moston seconded the motion.

Roll Call vote:

Mr. Fitzgerald - yes

Mr. Julian – yes

Ms. Pokorski – yes

Ms. Moston – yes

Ms. Perille – yes

Motion carried.

Planner's Report

Mr. Evans presented information on future cases.

Adjournment

Mr. Fitzgerald made a motion to adjourn the meeting. Mr. Julian seconded the motion.

Roll Call vote:

Mr. Fitzgerald - yes

Mr. Julian – yes
Ms. Pokorski – yes
Ms. Moston – yes
Ms. Perille – yes
Motion carried.

Meeting adjourned at approximately 9:12 p.m.

Respectfully submitted,

Shannon Conroy
Recording Secretary

Ms. Patricia Pokorski, Chairperson
Zoning Board of Appeals